A/57/36

United Nations

Report of the United Nations High Commissioner for Human Rights

General Assembly

Official Records
Fifty-seventh Session
Supplement No. 36 (A/57/36)

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United Nations • New York, 2002

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1020-3672

Summary

This has been a challenging year for human rights, with both positive developments and worrying trends. The introduction of the report provides the context of the year's challenges, including the impact of the horrifying 11 September 2001 attacks on the United States of America. The report then provides an overview of the notable developments between 1 November 2001 and 30 August 2002 that merit attention.

Human rights and conflict. The protection of civilians in times of war remains an important priority for my Office. During the reporting period, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has continued to strengthen its relationship with other elements of the United Nations system in this regard. In an unprecedented move, the Security Council drew my attention to the 14 May 2002 massacres in Kisangani, Democratic Republic of the Congo.

The report addresses the importance of, and my Office's involvement in, processes of ensuring accountability in societies in transition. OHCHR has been extensively involved in supporting the establishment of the Truth and Reconciliation Commission in Sierra Leone and the Commission on Reception, Truth and Reconciliation in East Timor. In both of these countries, the Commissions are complemented by efforts to establish judicial mechanisms designed to prosecute the most serious violations. Such complementary action strikes the right balance between seeking justice for past events and a forward-looking strategy.

An example of the approach taken by OHCHR to assisting societies in conflict is our work in Afghanistan. OHCHR participated in the design of the United Nations Assistance Mission in Afghanistan (UNAMA) and is actively contributing to the implementation of the human rights provisions of the Bonn Agreement. During my visit to Afghanistan in March 2002, the first Afghan National Workshop on Human Rights was convened to review the human rights provisions of the Bonn Agreement. The meeting established several national working groups to address fundamental human rights issues. As this report describes, that process resulted in a substantial assistance programme.

The fifty-eighth session of the Commission on Human Rights. It was a mixed year for the Commission. On the one hand, there were some encouraging developments, such as the adoption of a draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, the creation of a new mandate on the right to health and the creation of two working groups to provide follow up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Also of note in this regard is that, as of 1 August 2002, 39 States had extended a standing invitation to the thematic special procedures of the Commission.

It is regrettable, however, that the fifty-eighth session generally shied away from taking steps that would have strengthened protection of the rights of vulnerable individuals and groups. The marked increase in block voting by groups and preference for an approach excluding action on country situations where consensus is not possible may indicate a possible trend towards weakening the traditional protection role that the Commission has exercised. Membership in the Commission should be perceived and understood as bringing with it special obligations as well as

rights, responsibilities and privileges. My report offers some ideas on how the Commission might strengthen its protection role.

Fostering national protection systems. During the reporting period, OHCHR made the promotion of the rule of law a priority in its technical cooperation programme. Its support covered a wide range of activities, such as assistance for constitutional and legislative reform; administration of justice; elections and national parliaments; and human rights training for police, armed forces, prison personnel and legal professionals. The report focuses on the area of establishment and strengthening of national human rights institutions, where OHCHR has been particularly active.

OHCHR has encouraged national ownership of human rights treaties. It continued to support and assist Governments with reporting under the various human rights treaties. Workshops have been organized on ratification and the preparation of reports to treaty bodies. Such workshops will now increasingly focus on follow-up to, and implementation at the national level of, recommendations made by the treaty bodies. The first pilot workshop on follow-up to concluding observations of the Human Rights Committee took place in Quito, focusing on the Latin American and Caribbean region.

Regional frameworks. OHCHR has continued to develop regional and subregional approaches by identifying and systematically addressing issues of special relevance to specific geographic areas and empowering and strengthening partner organizations and institutions in the regions. The report describes in particular the Office's effort to support the New Partnership for Africa's Development initiative (NEPAD). Human rights representatives have also been placed in the headquarters of the regional economic commissions at Bangkok, Beirut, Santiago and Addis Ababa, as well as in Pretoria and Yaoundé.

Human rights and development. A human rights approach to development considers development as a process committed to the guarantee of all human rights, the rule of law and democracy. There are two elements of this process. First, there is **mainstreaming** human rights, which captures the idea of **institutional internalization** of human rights from a peripheral concern to a shared corporate responsibility. Second, there are **rights-based approaches**, which refer to the consequent **operationalization** of human rights into the **policies** and **programmes** of an organization. During the reporting period, and as this report details, OHCHR has been working extensively with its partners to further this process, both within the United Nations system, as well as with other partners.

The annex to the report briefly describes my 13 official visits to: Afghanistan, Bahrain, Brazil, Cambodia, China, East Timor, Egypt, India, Lebanon, Mexico, Pakistan, Peru and Switzerland.

Contents

		Paragraphs	Page
I.	Introduction	1–21	1
II.	Human rights and conflict	22–50	5
	A. The Security Council and human rights	29–32	6
	B. Enhancing accountability: the experience of Sierra Leone and East Timor	33–43	7
	C. Assisting societies in conflict: the case of Afghanistan	44–50	10
III.	Fifty-eighth session of the Commission on Human Rights	51–58	12
IV.	Fostering national protection systems	59–76	13
	A. Supporting national ownership of human rights treaties	61–69	14
	B. Strengthening national human rights institutions	70–76	15
V.	Regional frameworks	77–90	17
	New Partnership for Africa's Development	87–90	19
VI.	Human rights and development	91–108	20
	A. Mainstreaming	93–96	20
	B. A rights-based approach to development	97–102	21
	C. Participation in recent world conferences	103–108	23
VII.	Conclusions and recommendations	109–110	24
Annex			
	Country visits undertaken between 1 November 2001 and 31 August 2002		26

I. Introduction

1. This has been a challenging year for human rights, with both positive developments and worrying trends. Human rights work needed to address a changing context while continuing to deal with ongoing concerns. The year provided a reminder not only of the complexities that face ensuring respect for human rights, but also of the ability and the sophistication of the United Nations human rights system to address contemporary concerns.

2. There is no doubt that the consequences of the heinous terrorist attacks of 11 September 2001 on the United States of America that shocked the conscience of humanity had the greatest impact on our work. The new insecurities which came in their wake affected the lives of many and focused international attention on eradicating the scourge of terrorism. A debate subsequently ensued on the adequacy of international law, particularly human rights and humanitarian law, to respond to the serious challenges posed by large-scale terrorism. My report to the fifty-eighth session of the Commission on Human Rights described the fair balances embodied in human rights law with regard to achieving security and respecting freedoms and considered how respect for human rights can provide a unifying framework to guide the effort to address the question of human security in the aftermath of these terrible events.

3. International resolve and cooperation are vital in combating terrorism. Security Council resolution 1373 (2001) imposed new international legal obligations on States to take measures and cooperate against terrorism and to report to the Counter-Terrorism Committee established under the resolution. OHCHR maintains a continuous dialogue with the Committee and suggested "further guidance" on compliance with international human rights standards for the submission of reports pursuant to paragraph 6 of resolution 1373 (2001) (E/CN.4/2002/18, annex), which were intended to supplement the Chairman's note on "Guidance" of 26 October 2001.

4. There is an enormous responsibility to rigorously uphold international human rights standards. There is growing evidence that since 11 September, some States have taken measures that violate their human rights obligations in areas such as the prohibition of torture, the right to asylum and non-refoulement, protection of racial and ethnic minorities, and freedom of expression and privacy. While many of these violations occurred and were condemned before the attacks on the United States, what is new after 11 September is the perception in some quarters that human rights transgressions may be overlooked until terrorism is defeated. Some States have taken advantage of this situation and adopted severe measures which violate fundamental freedoms and undermine legitimate dissent and the expression thereof through peaceful activities. This is unfortunate and counter-productive, as the best long-term strategy to isolate and defeat terrorism is by respecting human rights, fostering social justice and enhancing democracy.

5. Two United Nations human rights bodies, the Committee against Torture and the Committee on the Elimination of Racial Discrimination, issued statements (A/57/44, chap. I, sect. L and A/57/18, chap. XI, respectively) condemning the attacks on the United States and reminding States of their obligations under the respective conventions. The statements are based on the absolute prohibition of torture and racial discrimination under all circumstances.

6. OHCHR is cooperating with regional organizations such as the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and the Organization of American States (OAS) to clarify how human rights standards can be respected while terrorism is being eradicated. OHCHR participated in the Council of Europe Group of Specialists on Human Rights and the Fight against Terrorism, which drafted guidelines to States on this topic that were launched in July 2002. OHCHR also assisted the African-Asian Legal Consultative Organization in holding a special one-day meeting on the subject of human rights and terrorism on 17 July 2002 during its forty-first session held in Abuja. OHCHR also collaborated with the International Institute for Humanitarian Law, the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Refugees (UNHCR) in an expert meeting in San Remo, Italy, from 31 May to 2 June, focusing on the complementary approaches of human rights law, humanitarian law and refugee law in addressing terrorism.

7. Second, efforts focused on the ongoing struggle to eliminate racial discrimination, particularly on the implementation of the anti-discrimination agenda of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa, from 31 August to 8 September 2001. This agenda, which was adopted only three days before the tragic events of 11 September, offers some answers in addressing some of the root causes of violence. The Durban Declaration and Programme of Action focus on efforts to identify the causes, forms and contemporary manifestations of racial discrimination. They recommend concrete steps to be taken in the areas of prevention, education and protection at the national, regional and international levels, including the adoption of legislative, judicial and administrative measures, the prosecution of racist acts, the development of independent national institutions and the enhancement of affirmative action policies, and recognize the need for effective remedies, recourse, redress and similar measures. Strategies to eliminate racial discrimination also agreed upon in Durban to achieve full and effective equality by combating racism, racial discrimination, xenophobia and related intolerance should constitute an essential component of the international agenda to reinforce social harmony and address some of the causes of insecurity.

8. OHCHR has spearheaded the implementation of the Durban agenda. For instance, the commemoration of Human Rights Day on 10 December 2001 was devoted to follow-up of the Durban Declaration and Plan of Action. A panel discussion entitled "Young people against racism: the road from Durban" was held to commemorate 21 March, the International Day for the Elimination of Racial Discrimination. A parallel event was held on 10 April 2002 during the Commission on Human Rights on combating racism and promoting women's rights. Two regional expert seminars on the implementation of the Durban Declaration and Programme of Action were organized, one in Mexico City from 1 to 3 July 2002 and another in Nairobi from 16 to 18 September 2002. Furthermore, as part of its engagement with civil society, OHCHR has allocated a series of grants to projects designed to combat racism, xenophobia and related intolerance among young people at the grass-roots level.

9. Third, the period under review has proved that a number of other key challenges that were before us prior to 11 September have not become less pressing. While some nations, such as those in the Middle East and the Great Lakes region, continued to be engulfed in destructive conflicts and in some areas the conflict even

intensified, other societies, including in Angola, East Timor and Sierra Leone, emerged from conflict and have started their nation-building efforts. Moreover, many individuals across the globe continued their uphill struggle against extreme poverty, underdevelopment and HIV/AIDS, and their ongoing search for democracy, social justice and respect for fundamental freedoms.

10. This year has been particularly significant for indigenous peoples: the Permanent Forum on Indigenous Issues held its first session from 3 to 24 May 2002. The Forum offers a remarkable opportunity for addressing the very real disadvantages faced by indigenous peoples and has the potential to provide high-level attention to indigenous issues that could also become the starting point for partnership projects between indigenous communities and the United Nations system.

11. Efforts were also focused on trafficking in human persons. My Office prepared, and submitted to the Economic and Social Council, the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1). Development of the Principles and Guidelines began in 2000 in response to the clear need for practical, rights-based policy guidance on the trafficking issue. Their purpose is to promote and facilitate the integration of a human rights perspective into national, regional and international anti-trafficking laws, policies and interventions. They serve as a framework and reference point for the work of OHCHR on this issue. I encourage States and intergovernmental organizations to make use of the Principles and Guidelines in their own efforts to prevent trafficking and to protect the rights of trafficked persons.

12. Fourth is developing partnerships. Under the terms of my mandate, I have the "principal responsibility for United Nations human rights activities". This imposing mandate can best be carried out by working in harmonious partnerships. OHCHR has striven to be catalytic, to be a centre of excellence, to add value to the knowledge base about international human rights and to network worldwide on the protection and promotion of human rights.

13. Recognizing that the primary responsibility to promote and protect human rights lies with States, I have worked in close cooperation with Governments to enhance human rights promotion and protection throughout the reporting period. While human rights concerns were raised, our efforts focused on advice and assistance in the incorporation of international human rights norms in constitutions and legislation, national human rights plans of action, as well as the development of national institutions for the promotion and protection of human rights.

14. During the period under review, I visited 13 countries to engage in dialogue with public officials and civil society about human rights issues. During these visits, workshops were held, memorandums of understanding were signed and human rights concerns were raised. At all times, I expressed our commitment to strongly support national human rights capacity. A more detailed description of these visits is contained in the annex.

15. OHCHR has also developed its relations with other colleagues in the United Nations system. The Secretary-General's 1997 reforms considered human rights as a cross-cutting issue throughout the whole United Nations system (see A/51/950 and addenda). In his landmark address to the General Assembly on 10 November 2001, the Secretary-General renewed his commitment to integrating human rights within

the system. Considerable progress has been seen at the institutional level within the United Nations system, for example through the consideration of human rights as an issue of direct relevance to the four Executive Committees and the continued development of human rights capacities and policy in agencies such as the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the World Health Organization (WHO), the United Nations Development Fund for Women (UNIFEM), the United Nations Population Fund (UNFPA), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the Food and Agriculture Organization of the United Nations (FAO) and UNHCR, and the further integration of human rights concerns within the decision-making of the Security Council.

16. However, considerable attention should continue to be directed at both the institutional and programmatic levels in order to ensure that the implications of the Secretary-General's reform agenda are felt at the operational level. Greater effort must be made and more resources allocated to develop institutional incentives, accountability systems and training packages to empower development practitioners to mainstream human rights.

17. OHCHR has also intensified and developed its cooperation with non-governmental organizations (NGOs) and the private sector. The universal human rights movement has grown enormously and has made critical contributions to the promotion and protection of human rights. Human rights NGOs exist now in almost every country in the world. The degree to which States respect and protect the rights of human rights defenders is now considered a way of gauging their true commitment to democracy and freedom. My Office considers human rights defenders to be crucial partners in the implementation of the universal human rights agenda. OHCHR has relied on information from NGOs, co-organized meetings with them and intervened on their behalf when they were persecuted.

18. Another significant constituency is the business community. In cooperation with the International Labour Organization (ILO), the United Nations Environment Programme (UNEP) and UNDP, OHCHR has continued its involvement in the United Nations Global Compact and its support for the Secretary-General's emphasis on engagement with the private sector in contributing to the achievement of United Nations goals. Global Compact activities over the past year have included outreach to companies from all regions and the development of a "Learning Forum" intended to capture the experiences of companies in implementing the Compact's principles in the areas of human rights, labour and environmental standards through multi-stakeholder dialogue which, in 2001, focused on the role of the private sector in zones of conflict and, in 2002, on sustainable development.

19. Fifth is enhancing the management of OHCHR. During the period under review OHCHR has continued to work to strengthen its expertise in management areas and to create a management culture by promoting efficient and effective management practices. Three key internal management mechanisms operate in OHCHR: the Senior Policy Committee, the Management Board and the Project Review Committee. The Senior Policy Committee is the central policy planning body of the Office and meets monthly to ensure strategic coherence and direction in the work of the Office. The Management Board meets weekly to control efficiency and to monitor managerial practices. It provides cross-sectoral management of human and financial resources and identifies and analyses management issues of

common concern. The Project Review Committee meets weekly and exercises oversight responsibilities over project initiation, development and execution. The Policy Planning and Methodology Team provides support for policy planning and development of methodology of human rights work and is developing an evaluations and lessons-learned expertise. Inter-branch task forces ensure an integrated approach and internal coordination on cross-cutting issues.

20. In close cooperation with the Staff Development and Learning Section of the United Nations Office at Geneva, tailor-made training courses have taken or will take place during the year on team-building, strengthening supervisory skills, presentation skills and project training, aimed largely at middle management. Induction training to new staff members is held twice a year. In June, all parts of the Office participated in a one-day training exercise on the implementation of results-based budgeting.

21. I have presented separate reports on some of the issues highlighted above. As mentioned, my report to the Commission on Human Rights at its fifty-eighth session (E/CN.4/2002/18 and Add.1 and Add.2) considered how human rights can operate as a unifying framework to address human insecurity. My report to the Economic and Social Council at its substantive session of 2002 (E/2002/68 and Add.1) focused on the rights of persons living with HIV/AIDS, people with disabilities, indigenous peoples and trafficked persons. The present report to the General Assembly should be read in conjunction with the earlier reports. It provides an overview of notable developments in areas of our work that took place between 1 November 2001 and 30 August 2002 and which merit attention.

II. Human rights and conflict

22. Protracted conflicts led to many humanitarian crises during the period under review. Parties to armed conflicts, which were often fought with external support and involvement, frequently blurred the distinction between civilians and combatants. As a result, civilians were directly targeted. They were massacred, displaced, forcibly disappeared, tortured and raped, and children were recruited into armed forces. These serious violations of human rights and humanitarian law were often committed with impunity.

23. Prevention of conflict is an important human rights objective. Human rights can offer useful tools for the identification of potential deadly conflicts and contribute to strategies for addressing them. There is no doubt that the absence of the rule of law and democracy in addition to claims of domination, discrimination and denigration are often at the root of conflicts.

24. The protection of civilians in times of war remains an important human rights priority. Human rights and humanitarian law complement and reinforce each other, sharing a common nucleus of core rights and a common purpose of promoting human life and dignity. While the purpose of humanitarian law is to protect victims by focusing on limiting the suffering caused by war, human rights law seeks to protect the individual and further her or his development.

25. At all times, individuals must be protected from genocide, war crimes and crimes against humanity. The entry into force of the Rome Statute of the

International Criminal Court (ICC) on 1 July 2002 is a significant step towards eradicating impunity for those crimes.

26. The terrible escalation of violence in the occupied Palestinian territories and Israel led to a special sitting of the Commission on Human Rights during its fifty-eighth session. The Commission recognized the need to respond to the severe loss of life of both Palestinians and Israelis and to the spiralling violence that raised fundamental challenges for the observance of international human rights and humanitarian law. It requested me to undertake a "visiting mission", but the necessary agreement of the Israeli authorities was not forthcoming. As a result, the Commission urgently requested me to submit a fact-finding report and I reported to the Commission on the basis of existing information. The Commission is keeping the situation under review.

27. The armed conflict deteriorated in Colombia and all parties frequently violated humanitarian principles. Defenceless civilians were often targeted and grave and systematic violations of the right to life and security of person have taken place. With the breakdown of the negotiation process between the Government and the Revolutionary Armed Forces of Colombia (FARC), on 20 February 2002 my field Office in Colombia assumed a greater responsibility in monitoring the respect for human rights and humanitarian law throughout the country. The opening of two subregional offices in Cali and Medellin by the end of 2001 enhanced our capacity in this regard. The intensification of the conflict diminished the possibilities for complaints, investigation and follow-up at all levels. I have been in contact with President Álvaro Uribe, who assumed office on 7 August 2002. He assured me of his commitment to continuing cooperation with my Office.

28. Conflicts sometimes continue by feeding on to the opportunities generated by war economies and lawlessness. From 13 to 17 May 2002, in accordance with General Assembly resolution 56/232 OHCHR organized a meeting of international experts on the elaboration of a clearer legal definition of mercenaries. The meeting recommended that the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which came into force in October 2001, be amended to make the prevention and punishment of the activities of mercenaries more efficient. It stressed that there was a need for appropriate national and international legislation to combat the phenomenon and urged consideration of the possibility of establishing a monitoring mechanism that would improve the accountability of private security or military companies. The meeting was a follow-up to a meeting held in 2001 which surveyed mercenary activity in several regions of the world.

A. The Security Council and human rights

29. The Security Council is increasing efforts to integrate human rights in the peacemaking, peacekeeping, and peace-building processes. Several special rapporteurs of the Commission as well as OHCHR have informally briefed the Council. Every month, OHCHR also regularly brings relevant information to the attention of the Council's Presidency. Many United Nations peacekeeping operations now have human rights components. This has resulted in cooperative arrangements between OHCHR and the Department of Peacekeeping Operations and the Department of Political Affairs for the peace operations, for instance in Afghanistan,

Angola, Bosnia and Herzegovina, Burundi, the Democratic Republic of the Congo, East Timor, Eritrea/Ethiopia, Guinea-Bissau, Kosovo, Liberia and Sierra Leone. The Secretary-General has also sought an increase in resources for my Office to strengthen its ability to implement the tasks arising from the report of the Panel on United Nations Peace Operations (see A/55/502). Some resources were indeed provided in 2002 for this purpose.

30. In an unprecedented move, on 24 May 2002, the Security Council drew my attention to the serious events that had occurred on 14 May 2002 and immediately thereafter in Kisangani, Democratic Republic of the Congo. In response, my office in the Democratic Republic of the Congo immediately collaborated with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) in an initial mission to the area . The mission indicated the need for further expert-level inquiry. Owing to the unavailability of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, arrangements were made for Ms. Asma Jahangir, the Special Rapporteur on extrajudicial, summary or arbitrary executions, to undertake an urgent mission to the area on my behalf and to provide me with a report on these events.

31. Ms. Jahangir visited the area from 16 to 22 June 2002 and reported to me shortly thereafter. Based on her report, I submitted a report to the Security Council. Following informal consultations on 16 July 2002, the Council agreed that my report would be circulated as a Council document (S/2002/764, annex). The report concluded that the de facto authorities of Kisangani, the Rassemblement Congolais pour la Démocratie-Goma (RCD-GOMA), are responsible for the massacres of 14 and 15 May in which at least 103 civilians and 60 soldiers and police officers were extrajudicially executed. It also concluded that impunity continues to be a major cause of human rights violations, particularly in light of the numerous previous massacres committed in the country by various parties to the conflict.

32. In a statement on 23 July (S/PRST/2002/22) the President of the Security Council expressed appreciation for the report and reiterated the Council's "strong condemnation of the killings and attacks against civilians, soldiers and police officers that took place on 14 May 2002 and thereafter". The Council stressed that the RCD-GOMA were responsible for the massacres and demanded that they take the necessary measures to bring the perpetrators to justice. The Council also stressed that "Rwanda has a duty to use its strong influence to ensure that RCD-GOMA comply with this demand". It requested MONUC and my Office to continue its investigations and to make recommendations on concrete measures to be taken to effectively end impunity.

B. Enhancing accountability: the experience of Sierra Leone and East Timor

33. Conflicts, particularly internal ones, often produce large-scale violence when members of various groups attack and abuse each other. Any society that goes through such a difficult experience must face the issue of how to address the human rights violations committed during the conflict. Ignoring these abuses runs the serious risk of repetition if impunity is allowed to reign. Accountability for abuses is thus not only a question of seeking justice for past events, but is also a forward-looking strategy for the future.

34. How to achieve accountability is frequently a main problem as the judicial system of countries emerging from conflict is often destroyed as a result of the conflict, or its partiality was among the causes of the conflict. Given the extensive level of gross violations of human rights, it may be impossible practically to ensure that all alleged perpetrators are prosecuted through judicial proceedings. Accordingly, mechanisms of accountability are being developed to ensure that neither truth nor justice is sacrificed and to assist, where possible, in the promotion of reconciliation and reintegration. Societies emerging from brutal conflicts need to be assisted in this regard.

35. The set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1, annex II) which were submitted to the Sub-Commission on the Promotion and Protection on Human Rights contain helpful suggestions about how accountability can be pursued. The underlying principle is that impunity for genocide, war crimes and crimes against humanity is incompatible with States' legal obligations. Accordingly, judicial processes that meet international standards must take place. The creation of ICC will enhance accountability. Through its cornerstone principle of complementarity, the Rome Statute highlights the fact that international prosecutions alone will never be sufficient to achieve justice and emphasizes the crucial role of national legal systems in bringing impunity to an end.

36. Nations also have the right to know the truth about past events. Full and effective exercise of the right to the truth is essential to avoid any recurrence of violations in the future. OHCHR supported the Truth and Reconciliation Commission in Sierra Leone which has been established as a means of addressing impunity and ensuring accountability for wide-scale abuses and violations of human rights. OHCHR assisted the Government in drafting the Truth and Reconciliation Commission Act passed by the Parliament in February 2000. The Act imposes a statutory obligation on the Commission: (a) to create an impartial historical record of violations and abuses of human rights and humanitarian law relating to the Sierra Leone conflict from 1991 until the signing of the Lomé Peace Agreement on 7 July 1999; (b) to address impunity, respond to the needs of victims, promote healing and reconciliation and prevent a repetition of the violations and abuses suffered; (c) to investigate and report on the causes, nature and extent of the abuses and violations including their antecedents, context and the role of internal and external actors; and (d) to recommend measures to be taken for the rehabilitation of victims. The Act provides that the Commission will be composed of four nationals, recommended by a panel coordinated by the Special Representative of the Secretary-General for Sierra Leone, and three international commissioners, recommended by the High Commissioner, on the basis of their personal merit and serving in their individual capacities. The legitimacy of truth and reconciliation commissions depends on their independence.

37. In March 2002, OHCHR assisted in the establishment of the Truth and Reconciliation Commission Interim Secretariat, which prepared for the establishment and inauguration of the Commission. With the successful implementation of the preparatory work for the Commission, the Government announced the membership of the Commission on 13 May 2002. The Commission was inaugurated on 5 July 2002 and has commenced its three-month preparatory period which will lead into the 12-month operational period scheduled to commence in October 2002.

38. The simultaneous existence of the Truth and Reconciliation Commission and the Special Court in Sierra Leone, both supported by the United Nations, provides a unique opportunity to advance multiple and complementary levels of accountability. The Commission and the Court fulfil different yet complementary roles in ensuring accountability in terms of criminal justice, truth regarding perpetrators, truth for victims, re-establishment of the rule of law, reparations and restorative justice. These will all contribute to the healing process and the prevention of future violence. While the Special Court will mete out retributive justice for some of the most serious offenders, the Truth and Reconciliation Commission is designed to provide restorative justice to the many victims of the violence living in remote areas, of whom little is known, and incorporate aspects of local culture to promote reconciliation and reintegration. The two institutions are complementary; where one institution falls short, it is anticipated that the other will come forward to meet it. This interface provides a joint and compatible approach to transitional justice in Sierra Leone.

39. My Office likewise supported the establishment of the Commission on Reception, Truth and Reconciliation in East Timor. During my visit to East Timor in August 2002, I attended the first village meeting of the Commission in the village of Liquisa. OHCHR assisted in drafting the Act setting up the Commission, which will have two broad functions. The first will be a truth-seeking mechanism, promoting healing, in which witnesses and victims of human rights abuses will give testimony, a national history will be compiled and recommendations made in the final report on legal and institutional reforms which will safeguard human rights in the future. The second major function will be to promote community reconciliation by dealing with the many thousands of East Timorese who were involved in low-level crimes in and before 1999 through a community-based mechanism rather than the courts. Under these procedures perpetrators will approach the Commission, which will form a panel including local leaders from the affected community. Victims, witnesses and the community will participate in a hearing and the panel will decide on an appropriate act of reconciliation. This may be community service, repayment, public apology or other act which complies with international human rights norms and is proportional to the offence. The Community Reconciliation Agreement will be registered as a court order and once satisfactorily discharged will exempt the perpetrator from further civil or criminal liability.

40. Following preparations by an Interim Office within the Human Rights Unit of the United Nations Mission of Support in East Timor (UNMISET), seven national commissioners were sworn in on 21 January 2002 and commenced work immediately. The national office of the Commission was opened in February 2002, a senior management team recruited and programme and policy development commenced. In March and April 2002, staff for the national office were recruited and trained and a pilot project of statement-taking was conducted on the island of Atauro, which received a positive reaction from the local community. On 15 April 2002, 29 regional commissioners were sworn in and have since begun a widespread community awareness and consultation process to ensure community understanding and participation. Full-scale implementation of the functions of truth seeking and community reconciliation is expected to begin its 24-month operational period in September 2002.

41. The Commission has raised approximately 75 per cent of its budget of $4 million. Firm pledges to the end of September 2002 total $3 million. The

international community is urged to fully support the operations of the Commission. OHCHR continues to support the provision of expert international consultancies to the Commission, while two members of the Human Rights Unit of UNMISET act as advisers to the Commission.

42. In East Timor, the activities of the Commission on Reception, Truth and Reconciliation will be complemented by the ongoing trials being heard by the Serious Crimes Panel at the East Timorese courts for serious crimes such as murder, rape or organized large-scale violence that took place between 1 January and 25 October 1999. When someone applies to participate in the community reconciliation process, the Serious Crimes Unit will vet the case to ensure that it is not sufficiently serious to warrant indictment. A memorandum of understanding on this mechanism has been signed by the two bodies.

43. OHCHR support to the two truth and reconciliation processes referred to above identify a number of principles: firstly, support to the truth and reconciliation process should be complemented by the prosecution of serious crimes through the formal judicial process; secondly, any assistance provided by OHCHR to truth and reconciliation processes is aimed at ensuring that truth commissions are the result of domestic consultations as to their need, are established by law, comply with fundamental principles of human rights, are independent, and are equipped — financially, politically and technically — to discharge their mandates.

C. Assisting societies in conflict: the case of Afghanistan

44. Human rights violations have always been at the heart of the long conflict in Afghanistan, with discrimination, arbitrary detention, torture, persecution of women and minorities, and massacres horribly commonplace throughout the war years. Hunger, drought, inadequate access to health care and education, and the widespread destruction of civilian infrastructure further exacerbated the suffering of the people of Afghanistan.

45. The Bonn Agreement of 5 December 2001 provided the opportunity to rebuild the institutions of human rights and the rule of law, to advocate for accountability in place of impunity, and to lay a rights-based foundation for development, peace and reconciliation in Afghanistan. The Agreement was concluded by the Afghan parties as a plan to end the fighting and launch a transition process that would secure national reconciliation and re-establish permanent governmental institutions.

46. The Agreement acknowledges the centrality of human rights and calls upon the United Nations to assist Afghanistan in advancing human rights promotion and protection. The approach and strategy of the United Nations was based upon the findings of the report of the Panel on United Nations Peace Operations (A/55/305-S/2000/829), widely known as the "Brahimi report". OHCHR participated in the design of the United Nations Assistance Mission in Afghanistan (UNAMA) and seconded a human rights officer first to the Integrated Mission Task Force for Afghanistan in New York and then to the Office of the Special Representative of the Secretary-General in Kabul, to contribute to the implementation of the human rights provisions of the Bonn Agreement.

47. Work on implementing the Bonn Agreement's human rights provisions began formally on 9 March 2002, during my visit to Afghanistan, when the first Afghan

National Workshop on Human Rights was convened to review those provisions. It was a cooperative initiative of representatives of Afghan civil society, officials of the Interim Administration and the United Nations. The 80 Afghan participants included specialists and representatives drawn from national NGOs, academia, the Special Independent Commission for the Convening of the Loya Jirga and relevant ministries of the Interim Administration. The meeting established standing national working groups on the following four areas: establishment of an independent human rights commission and the building of its capacities in the areas of monitoring and investigations, complaints and petitions, advice and institution-building, conflict resolution, human rights networking and data management capacities; development and implementation of a national programme of human rights education; approaches to transitional justice and addressing the abuses of the past; and advancing the human rights of women.

48. OHCHR provided small grants to each of the working groups to cover the costs of their consultative activities. An OHCHR project officer was sent to Afghanistan to support the process. The four working groups met, together with relevant Afghan experts, in their own independent workshops during May 2002 and each proposed a two-year programme of activities to implement the human rights provisions of the Bonn Agreement related to its respective areas. The establishment of the Independent Human Rights Commission was to be the first component. The programme would then, in effect, be the two-year work plan of the Commission. OHCHR, together with UNAMA, will be supporting the Independent Human Rights Commission and its work plan through a joint support project for a two-year period.

49. The Independent Human Rights Commission was established by presidential decree on 6 June 2002. While the decree vests the Commission with broad scope and competence for promoting and protecting the human rights of the Afghan people, there is no doubt that the security situation in Afghanistan will play an important role in determining how effective the Commission can be and how the human rights of the Afghans can be upheld. The fact remains that its work, along with the general rehabilitation efforts undertaken in Afghanistan, is not being carried out in a post-conflict situation, but rather in a situation of continuing conflict. The main pressing issue in Afghanistan today is human security (see the annex for a brief description of my visit to Afghanistan). There are many new challenges as a result, but if successful, the Commission can demonstrate the necessity of building national human rights institutional capacity at the earliest stage possible, even while the conflict continues. The successful and timely implementation of the work plan of the Commission, along with the OHCHR/UNAMA support project, will, however, necessarily be contingent on the continuation of the Bonn process, progressively improved security conditions and adequate financial resources.

50. In parallel, OHCHR has continued in its efforts to address gross human rights violations in Afghanistan. A number of expert missions were sent from OHCHR throughout the reporting period, with a view to investigating alleged massacres and conducting preliminary investigations on identified mass graves. A mapping exercise of past massacres, as well as efforts to identify past, current and new information sources and available evidence of mass killings, were also initiated. Further to a request by UNAMA, my Office organized a forensic investigation and needs assessment mission from 24 April to 11 May 2002. Fieldwork was conducted in Bamyan, Mazar and Sherberghan, and an initial assessment of Afghan national forensic capacity was conducted in Kabul. The joint UNAMA/OHCHR project of

support to the Independent Human Rights Commission aims at providing the Afghans with this participatory and informed opportunity to consider and pronounce on options for addressing transitional justice.

III. Fifty-eighth session of the Commission on Human Rights

51. Over 3,700 individuals — including a record 77 dignitaries — from all parts of the world participated in the fifty-eighth session of the Commission on Human Rights, which took place from 18 March to 26 April 2002. The Commission, which is supported by my Office, is now being attended not only by its 53 member States, but also by almost all States Members of the United Nations as observers. Nearly all the United Nations agencies, many intergovernmental organizations and 247 NGOs participated in the session. Special rapporteurs and independent experts prepared reports on several countries and themes relating to civil, cultural, economic, political and social rights. The Commission adopted 92 resolutions and 18 decisions despite the drastic loss of one third of its meeting time owing to budget cuts.

52. Creating mechanisms for the protection of victims of human rights abuses has been one of the main achievements of the Commission. State support for, and cooperation with, country and thematic special rapporteurs, independent experts and working groups are essential for enhancing protection. It is encouraging that, as of 1 August 2002, 39 States had extended a standing invitation to the thematic special procedures of the Commission.[1] It is regrettable, however, that at the fifty-eighth session the Commission generally shied away from taking steps that would have strengthened protection for individuals living in serious distress.

53. The Commission now faces unmatched challenges and opportunities for continuing this vital work. With the active and constructive participation of States, NGOs and intergovernmental organizations, it constitutes a distinctive forum for discussing human rights issues and taking concrete and constructive steps to solve the manifold problems facing the international community in this crucial field. In this endeavour, the Commission must rely on and further develop the unique contribution of the special mechanisms which it has created over the years and which tirelessly aim to bring some aspects of the somber reality of today's world to light and propose recommendations to overcome them.

54. At the core of the Commission's mandates and activities lies the duty and responsibility to protect human beings against gross violations of their human rights. It is crucially important for the Commission to discharge in the most proper and efficient manner its duty to protect. In the past, the Commission did so by highlighting and publicizing gross human rights violations; providing a forum for victims to raise their grievances and to see their issues addressed; heeding the voice of conscience from different parts of the world; enabling NGOs to put forward alternative views and perspectives to those of Governments; developing norms and standards; and continuing its "building blocks" protection role. In this context, it is increasingly important to take into account the imperious need for the general public to be well informed about the activities of the Commission, including through an efficient use of new information technology; in this regard, a CD-ROM on the last session of the Commission is currently being prepared.

55. There are concerns, however, about a possible trend towards weakening the traditional protection role that the Commission has been exercising. This is

particularly seen in the voting pattern on country situations: the fifty-eighth session saw a marked increase in block voting by groups and preference for an approach excluding action if consensus was not possible. The core role of the Commission in protecting human rights by drawing attention to violations and abuses must be retained.

56. Nevertheless, the Commission continues to take important initiatives in the promotion of human rights. The fifty-eighth session also saw the adoption of, inter alia, a draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the creation of a new mandate on the right to health and two working groups to follow up on the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and a resolution on the situation of people of African descent.

57. At the same time, it is becoming increasingly clearer that the Commission's duty to protect must be matched by a more significant commitment to provide resources for technical cooperation and advisory services to assist countries in building and strengthening their national capacity in the rule of law, the administration of justice, and their adherence to human rights norms and standards. Should such resources be forthcoming, criticism would be perceived as constructive and forward-looking, not as judgemental finger-pointing.

58. In order for the Commission to address this challenge, it must operate with the highest possible level of integrity, credibility and effectiveness. Accordingly, I suggested that membership of the Commission should be perceived and understood as bringing with it special obligations as well as rights, responsibilities and privileges. This would and should undoubtedly encompass members' adherence to human rights instruments to which they are not yet a party, submission of long-overdue reports to treaty bodies, and issuing standing invitations to all thematic rapporteurs. In doing so, members of the Commission would seize the opportunity to lead by example.

IV. Fostering national protection systems

59. There is an integral link between the rule of law and respect for human rights. The latter requires that the entire range of institutional arrangements that function under the national constitutional and legal order play an active role to ensure that human rights, based on international commitments, are advanced, enjoyed and defended. These institutions include courts, parliaments and national human rights institutions. There must also be space for human rights defenders and the wider civil society to develop relationships with the formal State system of promotion and protection of human rights.

60. OHCHR has made the promotion of the rule of law a priority in its technical cooperation programme. Upon request, this programme supports countries in promoting and protecting human rights at both the national and regional levels by incorporating international human rights standards into national law, policies and practices and by building sustainable national capacities to implement these standards. Within this area, the Office's support has covered a wide range of activities such as the establishment and strengthening of national human rights institutions; assistance for constitutional and legislative reform, administration of justice, elections and national parliaments; and human rights training for police,

armed forces, prison personnel and legal professionals. OHCHR has also continued to support and assist Governments with reporting under the various human rights treaties.

A. Supporting national ownership of human rights treaties

61. Human rights protection is embedded in the body of norms and standards which are enshrined in United Nations human rights treaties. At this stage, each State Member of the United Nations is a party to one or more of the six core human rights treaties.[2] Reflecting the success of the Millennium Summit strategy of pressing for universal ratification, between January 2001 and 8 July 2002, 24 new instruments of ratification or accession to the six core human rights conventions were submitted. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict also entered into force on 12 February 2002.

62. All treaty bodies acknowledged positive legislative or policy changes enhancing the protection of human rights in 40 per cent of the reporting States. These positive reforms cover a wide range of areas such as child protection, corporal punishment, the administration of juvenile justice, restitution, tackling propaganda inciting ethnic hatred, respect for minority rights and equality before the law.

63. OHCHR has stood ready to assist Governments in incorporating international human rights standards into national laws, policies and practices and in building sustainable national capacities to implement these standards. It has also been developing strategies to assist States in ratification, reporting, national implementation and follow-up. The aim is to contribute to reducing the gap between the legal commitments undertaken by States parties under the relevant treaties and the implementation of the ensuing obligations at the national level. National implementation is facilitated through raising awareness about international human rights standards, mechanisms and obligations amongst government officials and other international and national partners such as regional and local offices of the United Nations and specialized agencies, national human rights institutions, NGOs and bar associations. To this end, OHCHR is currently surveying best practices regarding follow-up activities.

64. At the request of Member States, OHCHR has organized a series of workshops in different parts of the world on ratification and the preparation of reports to the treaty bodies. For instance, a workshop was organized in Samoa for the Cook Islands, Niue, Samoa, Tonga and Tuvalu from 11 to 14 December 2001. Such workshops will now increasingly focus on the follow-up and implementation at the national level of recommendations made by the treaty bodies. The first pilot workshop on follow-up to concluding observations of the Human Rights Committee took place in Quito from 27 to 29 August and focused on the Latin American and Caribbean region.

65. Another important step is the designation by both the Human Rights Committee and the Committee against Torture of one or several experts as rapporteurs tasked with monitoring follow-up to the concluding observations adopted by these two treaty bodies.

66. Thousands of victims of human rights violations approach the United Nations to intercede on their behalf. Between June 2000 and June 2002, OHCHR dealt with more than 103,130 individual complaints. Most of them are screened and dealt with under the procedure established pursuant to Economic and Social Council resolution 1503 (XLVIII). In December 2000, a Petitions Team, composed of lawyers, was created in OHCHR with the responsibility of channelling petitions into the quasi-judicial complaints procedures established pursuant to the Optional Protocol to the International Covenant on Civil and Political Rights, article 22 of the Convention against Torture and article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination. With respect to more than 110 States parties, individuals who have exhausted domestic remedies in their respective countries may petition the relevant United Nations treaty body. The treaty bodies examine the admissibility and merits of individual cases with a view to making reasoned determinations whether the provisions of the respective treaties have been violated and, if so, what remedies should be granted to the victims.

67. There is enormous potential in the individual complaints procedures. Responding to specific individual grievances, the committees have urged States parties to grant a spectrum of remedies, among them the commutation of death sentences, the release of prisoners, the reduction of prison terms, injunctions on the carrying out of corporal punishment, the holding of new trials, the investigation of cases of disappearance, the punishment of State agents responsible for arbitrary executions and torture, and the payment of compensation to victims. Perhaps most importantly, because of the longer-lasting effects, the treaty bodies have urged States parties to adopt new legislation or amend old legislation found to be in contravention of the human rights treaties.

68. The Human Rights Committee and the Committee against Torture have been increasingly called upon to request interim measures of protection from States parties in order to seek and obtain stays of execution, deferral of expulsion or extradition, and postponement of logging and mining activities in territories where minorities and indigenous populations live. There has been a high level of compliance by States parties with these requests, which are tantamount to injunctions.

69. The committees monitor the extent to which their recommendations are being complied with. Frequently, non-compliance by States parties with committee decisions is not due to a lack of will to cooperate, but to the absence of appropriate mechanisms to give effect to the committees' "Views" or "Opinions". Only a handful of States have adopted enabling legislation to facilitate the implementation of decisions emanating from the United Nations human rights treaty bodies. States parties should be assisted in adopting such legislation so that committee decisions may be promptly executed.

B. Strengthening national human rights institutions

70. The implementation of international human rights standards at the national level could be enhanced through the establishment of independent and representative national human rights institutions. Since the adoption in 1993 by the General Assembly by resolution 48/134 of the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris

Principles) there has been a continual increase in the number of such institutions. The Office's work on national institutions has continued to be supported by my Special Adviser on National Institutions and a small National Institutions Team. Notwithstanding limited resources, this work has been a pillar of the Office's activities, including during the reporting period. OHCHR has endeavoured to work closely with the wider United Nations family and partners and assisted both established national institutions and Governments which are in the process of, or committed to, establishing them in accordance with the Paris Principles. OHCHR has also enhanced its capacity to provide practical advice to the growing number of countries requesting it and to improve United Nations systemwide coordination in providing assistance to national institutions. To this end, a booklet on best practices was co-authored with the Commonwealth Secretariat and several national institutions that OHCHR has assisted. An effort has also been made to improve national institutions' access to relevant information for their work, in particular through the establishment of a national institutions web site (www.nhri.net) which is now linked to the OHCHR home page.

71. The Paris Principles prescribe that a national institution must be genuinely independent, adequately resourced, and have a broad mandate and a membership representative of the community it seeks to serve. The requirement of independence must be reflected not only in the constitutional or legislative mandate of the institution but also in the integrity and ability of those entrusted with its operation. Between September 2001 and July 2002 advice and information were provided to, and in some cases technical cooperation initiatives were developed for, institutions in Afghanistan, Azerbaijan, Bangladesh, Burundi, Cambodia, Cape Verde, Chile, Colombia, Côte d'Ivoire, Denmark, East Timor, Ecuador, Fiji, Gabon, Georgia, Germany, Ireland, Japan, Kenya, Liberia, Malawi, Mexico, Mongolia, Nepal, New Zealand, the Republic of Korea, Rwanda, Switzerland, Thailand, Togo, the United Kingdom of Great Britain and Northern Ireland, Yugoslavia and in the occupied Palestinian territory. The positive impact of the Office's initiatives can be seen in the increasing number of requests for national institutions' involvement in United Nations activities as well as a heightened level of impact of national institutions at the national level.

72. A project to support the strengthening of the rule of law and the promotion of human rights in the Andean region specifically focused on strengthening national institutions and their establishment in those countries where they do not yet exist. OHCHR has provided support to its partner, the Asia Pacific Forum of National Human Rights Institutions, to undertake work relating to trafficking, HIV/AIDS, investigation techniques, the issue of the media and racism, a sharing of best practices through annual meetings and other mechanisms and the Forum's Advisory Council of Jurists.

73. OHCHR has provided support to a network of national institutions as they develop their strategic plan and work plan. OHCHR has also been negotiating support for the nascent secretariat of national institutions of Africa, supported the meeting of southern, Central and East African national institutions held in Lusaka in June 2002 and also supported a training workshop on reproductive rights held in San José in May 2002.

74. Following the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, OHCHR provided support to the Sixth

International Conference of National Institutions for the Promotion and Protection of Human Rights held in Copenhagen and Lund, Sweden, in April 2002, which had as its main theme the role of national institutions in combating racial discrimination. OHCHR also facilitated the participation of national institutions in the fifty-eighth session of the Commission and the eleventh session of the International Coordinating Committee of National Institutions, which took place in Geneva in April 2002.

75. There has been a substantially increased understanding of the role of national institutions in the promotion and protection of human rights. Recent activities by national institutions have included a major focus on promoting and protecting the rights of women and children, combating racism, preventing discrimination against minorities and particularly vulnerable groups, and promoting the rights of people with disabilities. The integration of national institutions' activities throughout the work of OHCHR has become increasingly relevant. However, sustained effort in the area of national institutions is still required by OHCHR and its partners.

76. Increasing attention has been paid to the establishment of regional networks of national institutions in Africa, the Americas, and Asia and the Pacific. Through such networks it is envisaged that regional and local capacity-building will take place, assisted by the stronger national institutions within a given region, and that national institutions themselves will become increasingly effective in promoting and protecting human rights.

V. Regional frameworks

77. While progress in promoting and protecting human rights depends primarily on actions taken at the national level, regional strategies grounded in reinforcing universal human rights standards play a fundamental role. Since January 2000, OHCHR has developed regional and subregional approaches by identifying and systematically addressing issues of special relevance to specific geographic areas and empowering and strengthening partner organizations and institutions in the regions. The exchange of best practices and lessons learned among Governments and other actors within a region or subregion has been encouraged. This approach has assisted in the process of mainstreaming human rights within all programmes and activities of the United Nations system, as envisaged by the Secretary-General.

78. OHCHR has recently embarked on a process to assist various regions in identifying their specific human rights needs and strategies to address them. Useful consultations were held in various regions to address their concerns that were attended by States, non-governmental organizations and human rights experts.

79. A meeting for European and Central Asian countries was held in October 2001 in Dubrovnik, in collaboration with the Council of Europe and the Organization for Security and Cooperation in Europe. It concluded that a framework consisting of four major components could be appropriately applied in the context of human rights promotion and protection in Europe, Central Asia and the Southern Caucasus. Human rights education, national human rights institutions, national human rights action plans, and follow-up to recommendations of human rights treaty bodies and special mechanisms of the Commission on Human Rights were particularly specified.

80. Pursuant to the emphasis in the 1993 Vienna Declaration and Plan of Action on regional and subregional arrangements for the promotion and protection of human rights, the sixth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian-Pacific Region, held in Tehran in 1998, adopted the Framework for Regional Technical Cooperation in the Asian and Pacific Region (E/CN.4/1998/50, annex II) which identified States' commitments to four regional priorities: national plans of action for the promotion and protection of human rights and the strengthening of national capacities; human rights education; national institutions for the promotion and protection of human rights; and strategies for the realization of the right to development and economic, social and cultural rights. The tenth Workshop took place in March this year in Beirut. At the workshop Governments adopted a plan of action to be implemented over the next two years.

81. Reflecting the heightened attention given to Africa, two "dialogues" have taken place to elaborate the subregional strategies of the Office in Africa with regard to southern, Central and East as well as West Africa. In November 2001, the first African Dialogue was organized bringing together African Governments, human rights experts, national institutions and civil society representatives. The Dialogue sought to take advantage of the adoption of the Constitutive Act that would usher in the African Union (AU), the successor organization to the Organization of African Unity (OAU), and the New Partnership for Africa's Development (NEPAD), designed as tools to promote regional integration. In one of the main recommendations the Dialogue called upon OHCHR to engage the NEPAD secretariat with a view to seeking a role as a partner in resource mobilization, project sponsorship and implementation in the areas of democracy and good governance, rule of law, human rights, poverty eradication, HIV/AIDS, and peace and security. A second African Dialogue took place in May 2002 with the theme "Promoting justice and reconciliation in Africa: challenges for human rights and development". It was organized in collaboration with the International Criminal Tribunal for Rwanda. The meeting adopted recommendations on strategies for building effective national and regional capacities and institutions for dealing with justice and reconciliation as contained in African development initiatives and NEPAD.

82. From 6 to 7 December 2001, OHCHR organized in Geneva a meeting of experts from Latin America and the Caribbean and NGOs to discuss the OHCHR strategy for the region. The meeting provided advice to OHCHR with regard to enhancing cooperation with regional institutions and civil society and to identifying best approaches in this regard. The meeting requested OHCHR to adopt subregional approaches in its programming in order to strengthen cooperation with institutions of the Inter-American system and to pursue the mainstreaming of human rights.

83. In recent months, OHCHR, together with UNDP/Regional Bureau for the Arab States, has started implementing a project providing training, dissemination of human rights materials and other assistance to Arab States.

84. Participants from 14 island countries at the workshop held in Nadi, Fiji, from 25 to 27 June 2002 urged OHCHR to establish a presence in the region that would enable those countries to seek on-the-spot advice and assistance, notably in respect of human rights education. Such a presence would help facilitate more systematic co operation with the United Nations agencies and regional organizations in the area.

From 28 to 31 May 2002, consultations were held with partners in Bridgetown to explore closer cooperation in the Caribbean.

85. To assist in the implementation of these strategies, human rights representatives have been placed in the headquarters of the regional economic commissions in Bangkok, Beirut, Santiago and Addis Ababa, and also in Pretoria, working closely with the Southern African Development Community.

86. The Subregional Centre for Human Rights and Democracy in Central Africa in Yaoundé, which I officially launched in June 2002, serves nine countries of the subregion. The Centre has been created to contribute to training personnel responsible for the management of activities relating to human rights and democracy, to provide support for the creation and/or strengthening of national institutions responsible for human rights and democracy and to cooperate in disseminating the relevant international instruments. Since the beginning of its operations in March 2001, the Centre has been developing partnerships with the United Nations agencies working in Cameroon and in Central Africa as well as the Economic Community of Central African States and with other relevant bilateral and multilateral partners.

New Partnership for Africa's Development

87. Since the inception of the NEPAD initiative, I have considered human rights support to NEPAD as a top priority in the implementation of the OHCHR regional and subregional strategy in Africa. OHCHR has been in regular contact with the African Union, subregional organizations, the NEPAD Steering Committee and its secretariat in order to assist them to promote the inclusion of human rights and gender dimensions in the NEPAD implementation process. This involvement has been warmly welcomed by all partners as well as by civil society in Africa and has generated a number of recommendations and demands. For example, African leaders, in the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance, adopted in July 2002, agreed to strengthen cooperation with OHCHR in order to promote and protect human rights.

88. OHCHR has organized several consultative meetings and workshops concerning practical aspects of the implementation of NEPAD. The issues being addressed by OHCHR include: the implementation of the NEPAD agreements in accordance with regional and international human rights standards; adherence to good governance and the rule of law; support to AU and the African Commission on Human and Peoples' Rights, regional economic communities and regional and subregional courts; strengthening both the role of civil society organizations in the implementation of NEPAD, as well as their capacity (through capacity-building, training, funding, technical assistance) to participate effectively in the implementation of its human rights components of NEPAD; human rights education for African civil society and at school; empowerment of African women and women's human rights issues; peace-building and impunity; and effectiveness and accountability of peer review mechanisms and inclusion of human rights as part of these mechanisms.

89. OHCHR will continue to bring together senior African government officials, parliamentarians, NEPAD officials, representatives of United Nations agencies and programmes and civil society to discuss the place of human rights and gender in the

NEPAD process and agree on concrete recommendations for future action. These meetings also have the objective of raising awareness and stressing the importance of adopting a human rights approach for the successful implementation of NEPAD. In addition, OHCHR will continue its programmes aimed at building the capacity of these partners in order to empower them in implementing activities and projects supportive of NEPAD.

90. In addition to the two African Dialogue meetings mentioned above, in July 2002, OHCHR convened a workshop on the theme "NEPAD, human rights and OHCHR" during the Inaugural Summit of the African Union in Durban. This workshop was welcomed by participants as a first step and a unique opportunity to infuse practicality and human rights into the NEPAD process. As recommended by participants, OHCHR convened a follow-up workshop during the World Summit on Sustainable Development in Johannesburg to continue the discussions and to begin a reflection on developing some indicators of progress in human rights, good governance and the rule of law.

VI. Human rights and development

91. Human rights instruments have often reaffirmed the interdependence and mutually reinforcing relationship between all categories of rights, whether civil, cultural, economic, political or social. These instruments require the existence of effective national protection systems that ensure the enjoyment of those rights. They also call for participatory democracy based on the rule of law, which is considered the only system of government that can ensure the effective enforcement of rights. A human rights approach to development considers that development as a process is committed to the guarantee of all human rights, the rule of law and democracy.

92. In 1997, the Secretary-General required the integration of human rights throughout the United Nations system. This remains very much a work in progress, operating at two basic levels: the institutional or organizational level, and the programmatic or operational level. Two terms have become common language in the process of implementing the Secretary-General's reform: "mainstreaming" human rights, which captures the idea of the "institutional internalization" of human rights from a peripheral concern to a shared corporate responsibility, and the consequent "operationalization" of human rights into the policies and programmes of the Organization. The concept "rights-based approaches", elaborated on earlier, refers more specifically to this latter dimension.

A. Mainstreaming

93. The mainstreaming reforms of the United Nations see human rights as both a means and an end of development. The Secretary-General's 1997 reforms are the institutional recognition of the centrality of human rights within the scheme of values and the framework of international cooperation embodied in the Charter of the United Nations. The reform reaffirms that United Nations-system actors are bound by international law to respect and promote the treaty-based and other international human rights obligations of Member States. Human rights have, therefore, been recognized as a shared responsibility of all United Nations-system actors and are required to be incorporated as far as possible in all programme and

policy areas: development, peace and security, economic and social, and humanitarian issues.

94. The Millennium Development Goals provide an important opportunity for meaningful mainstreaming. The Millennium Declaration, which was adopted on 8 September 2000 in the largest-ever gathering of world leaders, specifies eight commitments relating to development and poverty reduction, known as the Millennium Development Goals. It also contains six commitments for promoting human rights, democracy and good governance. Most if not all of the strategies to achieve the Millennium Development Goals will be most effective if they operate within a human rights framework, since the Millennium Development Goals and the Millennium human rights commitments are complementary and mutually reinforcing. Without a human rights framework, which identifies the most vulnerable members of society, there is a risk that resources may be diverted towards the more visible and politically influential majority, whilst the situation of minorities and indigenous peoples is neglected in fields such as achieving universal primary education, reducing child mortality, improving maternal health, and combating HIV/AIDS, malaria and other diseases.

95. OHCHR has strengthened its relations with the World Bank. On 3 December 2001, I visited the World Bank in Washington and discussed with its leadership how the normative principles of human rights could be of operational relevance to the Bank's development efforts. There are important synergies between human rights and sustainable development grounded in the indivisibility of all human rights, whether civil, cultural, economic, political, or social rights. From 19 to 20 June 2002, an expert seminar on human rights and poverty reduction strategies was held in Geneva. The seminar advanced work on the draft guidelines on a human rights approach to poverty reduction strategies.

96. One example of mainstreaming is the work on the rights of persons with disabilities. In cooperation with the Special Rapporteur on disability of the Commission for Social Development, OHCHR undertook a study to evaluate existing standards and mechanisms in the field of human rights and disability. The main thesis of the study, which was launched on 15 April 2002, is that the process of disability reform, which is taking place worldwide, could be immeasurably strengthened and accelerated if greater and more targeted use were made of human rights norms. Although the rights of people with disability are not new on the human rights agenda, persons with disability are often invisible within their own society and their rights are often neglected or ignored.

B. A rights-based approach to development

97. A rights-based approach to development may be seen as the operational expression of the inextricable link between development and human rights. A rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. The rights-based approach integrates the norms, standards and principles of the international human rights system into the policies, plans and processes of development. The norms and standards are those contained in the wealth of international human rights treaties and declarations. The principles in question are: participation, empowerment,

accountability, non-discrimination, and express linkages to international human rights norms and standards.

98. A human rights-based approach to development moves the debate from general principles into an analytical and policy framework for the consideration of the complex issues involved in the development equation. One of these relates to the question of human rights and the environment. To explore such an analytical framework, OHCHR organized jointly with UNEP an expert meeting on 14 and 15 January 2002. The experts recognized that human rights and the environment are interdependent and interrelated. They noted that States and international organizations are increasingly recognizing the rights of access to information, public participation in decision-making and access to justice, and that a growing body of case law from many national jurisdictions is clarifying the linkages between human rights and the environment.

99. There is also a growing appreciation of the linkages between health, development and human rights. More and more, human rights are considered central to the global health challenges and increased attention is being given to the accountability of States under international law for issues relating to health. The Commission on Human Rights, in resolution 2002/31, reaffirmed the right to the highest attainable standard of physical and mental health and decided to appoint a special rapporteur. The Commission also emphasized the importance of access to medication as a component of that right.

100. OHCHR paid special attention to the rights of persons living with HIV/AIDS. OHCHR and UNAIDS co-hosted an expert consultation on 25 and 26 July 2002 to consider revising guideline 6 of the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I) concerning access to prevention, treatment, care and support. The International Guidelines, which were developed at the Second International Consultation on HIV/AIDS and Human Rights in September 1996 and published by OHCHR and UNAIDS in 1998, provide policy guidance for Governments, policy makers, international organizations, NGOs and human rights advocates on HIV/AIDS-related human rights issues.

101. A report, *The Application of Human Rights to Reproductive and Sexual Health*, was published by OHCHR jointly with UNFPA. This publication reflects the result of an expert group meeting held from 25 to 27 June 2001 to assess progress, obstacles and opportunities in integrating reproductive rights into the work of the treaty bodies and to elaborate further measures and strategies to be used by treaty bodies in the monitoring and strengthening of reproductive and sexual health. The meeting defined actions and recommendations that would ensure better implementation of treaty obligations at domestic level so as to promote enjoyment by women and men of reproductive and sexual health.

102. The need to integrate a gender perspective is an issue which both human rights and development experts have increasingly recognized as a necessary component of their work. Internationally adopted human rights standards can provide useful guidance in improving women's rights, and a major focus of international human rights law has been discrimination. A total of 169 States have undertaken to apply the Convention on the Elimination of All Forms of Discrimination against Women. Ratification of this and other legal standards on gender equality and the rights of women provide a reference and a means of achieving universal rights even in the context of cultural differences. Some dimensions of the impact of gender on

economic growth and development have long been recognized. Improving access to education for girls and women reduces child mortality and improves the nutritional status of children, and improving gender equality in secondary education has been linked to increases in per capita income. When women lack the right to inherit or own property, the resulting rigidities in gender roles influence the effectiveness of development strategies.

C. Participation in recent world conferences

103. OHCHR participated in the International Conference on Financing for Development, held in Monterrey, Mexico, in March 2002. OHCHR highlighted the legal imperatives of international cooperation and partnership for development arising from international human rights instruments to support national efforts. The international community, through the Monterrey Conference, will need to support country-owned and region-based initiatives such as NEPAD, through which African countries have recognized that in forming partnerships for development with industrialized countries that include increased official development assistance, capital flows, more market access and debt relief, they must commit to "accountable government, a culture of human rights and popular participation".

104. The Plan of Action of the 1996 World Food Summit had invited the Office of the High Commissioner to undertake, in collaboration with relevant treaty bodies, specialized agencies and programmes of the United Nations system and appropriate intergovernmental mechanisms, a better definition of the rights related to food in article 11 of the International Covenant on Economic, Social and Cultural Rights. The normative contribution of the Committee on Economic, Social and Cultural Rights, particularly General Comment No. 12, the three expert consultations convened by OHCHR, in Geneva on 1 and 2 December 1997, in Rome on 18 and 19 November 1998 and in Bonn from 12 to 14 March 2001, and action by the Commission on Human Rights through the work of the Special Rapporteur on the right to food were decisive in achieving this goal.

105. As stated by the Committee on Economic, Social and Cultural Rights, the roots of the problem of hunger and malnutrition are not lack of food, but lack of access to available food, inter alia, because of poverty. General Comment No. 12 (E/C.12/1999/5), adopted in 1999, defines the content of the right to adequate food. It considers that the core content of the right to food implies: (a) the *availability* of food in quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances and acceptable within a given culture; and (b) the *accessibility* of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights. While acknowledging that the right to adequate food has to be realized progressively, General Comment No. 12 points out that every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, and to ensure freedom from hunger.

106. The Special Rapporteur of the Commission on Human Rights on the right to food also contributed to the understanding of the issue of the justiciability of this right as well as its content, particularly with regard to including water in the meaning of "food". The Special Rapporteur also reflected on the implementation of

the right to food during armed conflict and the interrelationships between the right to food and international trade.[1]

107. From 10 to 13 June 2002, heads of State and Government undertook a five-year review of the commitments made during the World Food Summit in 1996. For the first time, heads of State and Government and their representatives recognized that human rights principles provide a strategy for the realization of the objectives of the Summit and that human rights are a powerful tool for monitoring compliance with its goals. Two main conclusions can be drawn from the Declaration of the World Food Summit: *five years later*: first, that the legal basis for the international guidelines is existing international human rights law; and second, that the guidelines should focus on further identifying the principles, laws, policies, institutions and other measures that will facilitate the progressive realization of the right to adequate food.

108. OHCHR is participating in the World Summit on Sustainable Development being held in Johannesburg from 28 August to 3 September. In preparation for the Summit, OHCHR prepared a background paper setting out the arguments for a human rights approach to poverty eradication, particularly in the areas of the right to health, food and water. The paper showed how human rights, underpinned by a comprehensive international legal framework and realized in a sustainable manner, can be employed as strategic tools in poverty reduction strategies. OHCHR furthermore organized a workshop, entitled "NEPAD, human rights and OHCHR: developing human rights indicators". OHCHR is participating in parallel events concerning several issues such as the links between the environment and human rights, and human rights and women in the context of sustainable development.

VII. Conclusions and recommendations

109. **It has been an enormous privilege and at times a daunting challenge to serve as United Nations High Commissioner for Human Rights. I have seen a transformation in the approach to human rights over those five years, in the mainstreaming throughout the United Nations system of a rights-based approach to our work, in the strong links now made between peace and security, human rights and human development, and in the way that civil societies in every region are learning to use the commitments of Governments in ratifying human rights covenants and conventions as a means of securing transparent and participatory decision-making on economic and social issues. The major focus over the coming years needs to be on developing and strengthening national protection systems, because it is at the national and local level that human rights are either protected or violated.**

110. **I am very proud of the Office and the colleagues I lead and I urge the General Assembly to continue with strong support for my successor and the work of the Office of the High Commissioner in the years to come.**

Notes

[1] Austria, Belgium, Brazil, Bulgaria, Canada, Costa Rica, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Iran (Islamic Republic of), Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland.

[2] As of 10 July 2002, there were 148 States parties to the International Covenant on Civil and Political Rights; 145 States parties to the International Covenant on Economic, Social and Cultural Rights; 162 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination; 169 States parties to the Convention on the Elimination of All Forms of Discrimination against Women; 129 States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and 191 States parties to the Convention on the Rights of the Child.

[3] To date the Special Rapporteur has submitted two reports to the Commission on Human Rights (E/CN.4/2001/53 and E/CN.4/2002/58), one mission report (E/CN.4/2002/58/Add.1) and one preliminary report to the General Assembly (A/56/210).

Annex

Country visits undertaken between 1 November 2001 and 31 August 2002

1. In resolution 48/141 of 20 December 1993 the General Assembly entrusted the High Commissioner with entering into dialogue with all Governments with a view to securing respect for all human rights. During the reporting period, I have visited several countries in Africa, Asia and Latin America. Below is a brief description of these visits. During the visits, I urged States to enhance their national protection systems and raised individual cases of concern.

2. The visit to India from 10 to 19 November 2001 had both a subregional and a national perspective. At the subregional level I addressed the South Asians for Human Rights meeting which was a gathering of human rights defenders from India, Bangladesh, Nepal, Sri Lanka and Pakistan, and opened the Asia-Pacific South Asia Subregional Workshop on the Justiciability of Economic, Social and Cultural Rights for judges and lawyers which OHCHR organized in cooperation with the Government of India in the context of the Asia-Pacific Framework. I met with high-level officials and raised issues of ratification of human rights treaties and cooperation with the mechanisms of the Commission on Human Rights and treaty bodies, and also raised issues of human rights concern, including the Prevention of Terrorism Ordinance, the number of deaths in police and judicial custody and allegations of torture.

3. I visited China in November 2001 and again from 18 to 20 August 2002. In the course of this year, we have continued and deepened the earlier work on human rights for the police and human rights education in schools with a view to internalizing relevant international human rights norms. New areas of work covered workshops for prison administration and for judges and lawyers, human rights fellowships and support for academic institutions. During my second visit, I participated in a workshop for judges and lawyers in Beijing. The workshop has launched an important new area of human rights cooperation between OHCHR and the Government of China. I have taken stock of the implementation of the memorandum of understanding between China and OHCHR, met with high State officials and visited a project on legal aid of the All China Women's Federation. As during previous visits, I also had to urge the Chinese authorities to enhance their action in the protection of human rights, particularly to eliminate the system of re-education through labour and to respect free expression.

4. I visited Brazil from 30 January to 1 February 2002. The discussion was focused, inter alia, on the follow-up to the OHCHR needs assessment mission of 2001. This included discussion of the implementation of the national plan of action.

5. I paid an official visit to Switzerland on 18 February 2002. The discussion focused on enhancing cooperation with OHCHR, particularly in the area of development. The visit came a few weeks before the national referendum that enabled Switzerland to join the United Nations.

6. I visited Egypt from 28 February to 1 March 2002 and discussed with high-level officials the human rights situation in the country and related concerns expressed by the human rights community regarding some provisions of the draft law on civil associations and institutions which had not yet been submitted to the

People's Assembly at the time of my visit. Regrettably, the law was later passed. While in Cairo I met with the Secretary-General of the League of Arab States and discussed ways to enhance cooperation. On 17 April 2002, the Secretary-General and I signed a memorandum of intent outlining cooperative endeavours aiming at establishing a technical assistance programme in the field of human rights, including training of secretariat staff, joint meetings and seminars, exchange of information and documentation, mutual consultation and cooperation.

7. In Bahrain, which I visited on 2 and 3 March 2002, I welcomed the King's decision to accede to the Convention on the Elimination of All Forms of Discrimination against Women. I also noted the important provisions of the National Action Charter aiming at the establishment of a democratically elected legislative body and affirming women's political rights to vote and to stand for elections, the planned guarantees for the separation of powers and for an independent judiciary, and the safeguards for individual rights and freedoms.

8. I visited Lebanon from 4 to 6 March 2002 and attended the tenth Annual Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region. Representatives of Governments of the region, together with representatives of the national human rights institutions and non-governmental organizations attending as observers, adopted a plan of action to be implemented over two years.

9. I visited Afghanistan from 7 to 10 March 2002 and commemorated International Women's Day in Kabul. The visit marked the beginning of a process of assisting Afghanistan in the implementation of the human rights provisions of the Bonn Agreement, the details of which are given in this report. The most pressing issue in Afghanistan today is human security. It was encouraging to see that Kabul has relative stability thanks to the efforts of the International Security Assistance Force. The rest of the country remains unsafe. The situation in the north of Afghanistan is particularly worrying. While in Afghanistan, I visited Mazar-i-Sharif and met with men and women of the Pashtun community who spoke of the killings, multiple rapes of women and young girls, looting, and the theft of animals that is taking place in this area.

10. During my visit to Pakistan from 11 to 13 March 2002, I urged the Government to ratify, amongst others, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and to establish an independent national human rights institution in conformity with international standards. Key areas of concern remain violence against women and honour killings, abuses committed by the police, improper administration of justice, the death penalty, particularly in regard to the blasphemy law, as well as impunity.

11. I visited Mexico from 30 June to 2 July 2002 and attended a Latin America and Caribbean regional expert seminar on the implementation of the Durban Declaration and Programme of Action which was organized by OHCHR in cooperation with the Economic Commission for Latin America and the Caribbean. The seminar was attended by representatives of Governments, national institutions and NGOs from the region. On 1 July, I and the Secretary of Foreign Relations of Mexico signed an agreement on the establishment of an office in Mexico. Discussions in Mexico focused on many specific topics regarding the situation of human rights in the country and the ongoing preparations for the second phase of the

OHCHR technical cooperation programme. I welcomed the prominence that human rights have in Mexico's new political agenda, in particular all the relevant decisions taken in this area during the last year, the open invitation to all the special procedures of the Commission to visit the country and the future visits of special rapporteurs. I was also encouraged by the appointment of a special prosecutor to bring justice to the victims of human rights violations that took place in the 1970s and 1980s and the families and by the ratification of several international human rights instruments. I encouraged the Government of Mexico to continue its efforts to improve the current judicial system and to curb impunity through effective governmental action and through the strengthening of national institutions for the promotion and protection of human rights.

12. I visited Peru from 3 to 5 July 2002. I was encouraged by the steps taken by the Government with regard to human rights and with the dedication of institutions and civil society in Peru. I also participated in the subregional workshop "Human rights, development and the Andean Community" organized by the Government of Peru in collaboration with OHCHR. The workshop focused on three main themes: development, poverty and non-discrimination; development and the rule of law; and human rights and trade. I also participated in a public hearing of the Truth and Reconciliation Commission and in the opening ceremony of the festival "Women's Rights are Human Rights" and addressed the students of the Diplomatic Academy.

13. I visited Cambodia from 20 to 22 August 2002, in order to draw attention to the grave subregional concerns regarding trafficking, to support activities of the Cambodia Office of the High Commissioner for Human Rights, and to discuss a number of human rights issues with the Government, civil society, the United Nations country team and donors. During my visit I addressed the National Assembly, where I launched an "Appeal from Phnom Penh" on the subject of trafficking. Just prior to the visit, in Beijing, I had an audience with Their Majesties, the King and Queen of Cambodia. In Phnom Penh I met with, among others, the Prime Minister, other senior members of Government and the President of the National Assembly. This was the second visit to Cambodia during my term in office as High Commissioner.

14. I visited East Timor from 23 to 25 August 2002, my second visit to the country. The visit was coordinated by the human rights unit of UNMISET, which operates in close cooperation with OHCHR. During this visit I met with all levels of Government, with civil society and with communities of victims of human rights violations and their families, both in Dili and at other locations, including Suai. I also addressed the National Assembly and judges and lawyers. The visit focused attention on forms of United Nations support for the development of a national human rights infrastructure, including the judiciary, and final elements for a new OHCHR technical cooperation project were discussed. Officials and civil society actors communicated to me their strong quest for justice and the need to ensure accountability for human rights abuses, including those perpetrated in East Timor in 1999.

02-58461 (E) 181002